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10/824,121	04/14/2004	Gregory Ashton	9522	6455

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EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/824,121
Filing Date: April 14, 2004
Appellant(s): ASHTON ET AL.

MAILED
AUG 16 2007
GROUP 3700

Charles R. Ware
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 25, 2007 appealing from the Office action mailed November 24, 2006.

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(1) Real Party in Interest

The real party in interest is The Procter & Gamble Company.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Application Serial No. 10/824,122 is currently pending on appeal to the Board of Patent Appeals and Interferences.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,669,896

KIELPIKOWSKI

9-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kielpikowski (U.S. Patent No. 5,669,896).

With respect to **Claims 1,7,14-17**: Kielpikowski teaches diaper 10 comprising a liquid-impermeable outer cover 18, liquid permeable bodyside liner 20 and absorbent core 22 located between the bodyside liner 20 and outer cover 18. Diaper 10 also comprises containment flap assembly 24 (dual cuff) further comprising inner containment flaps 34 and outer containment flaps 26. Inner flaps 34 have distal edges 30, outer flaps 26 have distal edges 38, and both flap sets have coinciding proximal edges 28. Proximal edges 28 and 36 coincide with one another, form an intermediate bond between distal edges 30 and 38 and are defined by a line of attachment at which the flap assembly 24 is attached to bodyside liner 20. (Fig. 7) (Col. 2, lines 47-67, Col. 3, lines 1-3). As can be seen in Fig. 7, elastic members 32 extending along the length of flaps 26 are held in place by bonds wherein the material of flaps 26 is wrapped around said elastic members and adhered to itself, thus forming a cuff end bond at the distal end of the dual cuff assembly 24. Elastic members 40 extend substantially the entire length of inner flaps 34. Since the function of the flaps is as a dual cuff containment assembly and said dual cuff

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assembly is disposed longitudinally along substantially the entire length of the diaper at transversely opposed lateral edges of core 22, flaps 34 and 26 are barrier cuffs.

With respect to **Claim 2**: Since proximal edge 28 is located adjacent the periphery of bodyside liner 20, outer cover 18 extends outboard of distal edge 30 of outer flaps 26.

With respect to **Claims 3-6**: Kielpikowski teaches that inner flaps 34 and outer flaps 26 contain first elastic members 32 and second elastic members 40, respectively that are attached in a pretensioned condition to first flap sheet material 42 said inner flaps 34, and the combination is then attached to second sheet material 44. (Figs. 2,7) (Col. 3, lines 4-6, 16-18, Col. 5, lines 30-32,48-51)

With respect to **Claim 8**: As can best be seen in Figs. 1 and 7, Kielpikowski teaches fasteners.

With respect to **Claims 9-13**: Kielpikowski teaches that first and second flap materials 42 and 44 are comprised of laminates comprising spunbond and meltblown polymers and that spunbond surfaces are treated with a surfactant to make them more hydrophilic. (Col. 4, lines 32-36,40,41,57-63)

(10) Response to Argument

Appellant's arguments filed April 25, 2007 have been fully considered but they are not persuasive.

With respect to appellant's arguments regarding the rejection of claims 1-13: Applicant argues that Kielpikowski does not teach a cuff end bond as claimed. Applicant is referred first to Col. 3, lines 4-6, and then to Col. 4, lines 49-56, both cited here:

The outer containment flaps 26 and inner containment flaps 34 are formed from a first integral sheet of containment flap material 42 (FIG. 2) having a length in the direction L. (Col. 3, lines 4-6)

In another embodiment of the present invention, the first and second sheets of containment flap material are integrally formed. That is, the first and second sheets of containment flap material are formed from a single, integral piece of material through a folding process in which the single piece of material is folded upon itself to form two layers which comprise the first and second sheets of containment flap material. (Col. 4, lines 49-56)

Such a folding process results in a dual cuff wherein a distal edge of the dual cuff, as such edge is defined in the disclosure, is the point at which the first and second edges of the integrally formed and folded continuous containment flap material meet. Kielpikowski also shows in Fig. 2 and teaches in Col. 8, lines 42-49 that the elastic members 32 are attached to the first layer (folded embodiment) or sheet (embodiment with separate first and second sheets) of containment flap material. The resulting first layer or sheet with attached elastic material 32 is combined with a second sheet from a supply roll (in the embodiment where the flap material comprises separate first and second material sheets), and the two layers are passed through a nip roll 70. Nip rolls bond substrates together via embossing. Thus, in the folded single material embodiment, the first and second edges of the folded layer of containment flap material are necessarily bonded together around the elastic 32 at the distal end because the material is folded in half. Thus, passing the folded material through the nip roll with the elastic 32 forms a

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cuff end bond as claimed. For the embodiment in which the first and second "sheets" of the integral containment flap material are formed by folding a single piece of material over itself, following the teachings of Kielpikowski in Col. 8, lines 42-49, the elastic 32 would be attached to the first layer as taught by Kielpikowski, and then, instead of having the second layer be a second separate sheet from a supply roll, the second layer would simply be the other half of the single folded piece of material that is now folded in half over the first layer with the elastic 32 already attached to the first layer. The resulting structure would be passed through the nip roll 70 as taught by Kielpikowski where the cuff end bond would then be formed as explained *supra*.

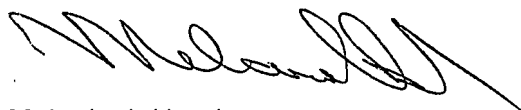
Appellants' arguments with regard to claims 14-17 have been fully considered but are not persuasive as Appellants' arguments are substantially identical to Appellants' arguments regarding the rejection of claim 1, which have been addressed *supra*.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Melanie J. Hand

Conferees:

Tatyana Zalukaeva

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

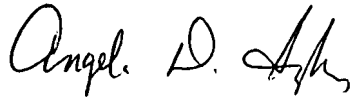


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Angela Sykes

A handwritten signature in cursive script, appearing to read "Angela D. Sykes". The signature is written in black ink and is positioned to the right of the printed name "Angela Sykes".